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ABSTRACT

The currently popular issue of natural rights is more complicated than many of its proponents realize. Natural rights, be they of an individual or a nation, do not exist within a social vacuum. When a person or nation asserts a natural right to something, the implication is that someone else is obligated to furnish it. Thus one person's right is a demand upon others. Analysis of the pros and cons of specific rights must take into account the effects of those rights upon the rest of the social order. For example, it can be said that citizens have a natural right to change their place of residence within their country. But China denies this right to its citizens, most of whom are rural. If this right were granted, millions of rural Chinese would migrate to the cities and problems of crowding, crime, and pollution would result. Another example is the popularly advocated right to food. Considered in light of a 1948 United Nations declaration that all men and women have the right to marry and found a family, the right to food is senseless. As the poorer nations of the world dramatically increase their populations and depend upon richer nations for food, citizens of the richer nations will ultimately suffer decreases in their own food supply. The conclusion is that any issue of natural rights must be considered in terms of the limited resources of the world and the interrelationships among all people who inhabit it. (AV)

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Limited World, Limited Rights

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Limited World, Limited Rights

To speak productively of the popular word "rights" we must first distinguish two meanings of the word: legal rights and "natural" rights. A legal right is anything the law says it is. Of course, since there is an irreducible ambiguity in language, problems arise in the delimitation of legal rights, but in principle these can be resolved by court decisions or additional legislation. Moreover, in practice we frequently find that two legislated rights conflict with each other in their area of overlap. For example, "the right to privacy" and "the right to know" inherently conflict; contradictions must be resolved by legislation or judicial decisions. Beyond such practical problems, legal rights present no philosophical difficulties.

It is the so-called natural rights that create problems and dissension. Thomas Jefferson, in the Declaration of Independence, asserted that life, liberty, and the pursuit of happiness are "unalienable rights" with which we have been endowed by our Creator. What sense can we make of such a claim? If a right is *truly* unalienable, it cannot be taken from us by any mortal means. The right to produce metabolic heat from the food we eat is clearly an unalienable right: there is no need to take legislative note of it. But life, liberty and the pursuit of happiness are plainly *not* unalienable rights because they have been taken from people countless times in the past; they are being taken from many people in many parts of the world now; and, unless we descend to romantic millenialism, we recognize that "unalienable" natural rights will continue to be taken from people in the future. "Unalienable" is the wrong word. When somebody calls a natural right unalienable, what he asserts is not a fact but a wish.

In their attitude toward natural rights people may be divided into two mutually exclusive groups: those who habitually deny the concept, and those who habitually ignore the denial. In the first group we have Jeremy Bentham who pithily said that "Natural rights is simple nonsense...rhetorical nonsense, nonsense upon stilts." Auguste Comte was less abrasive when he put the following statement on the title page of his *General View of Positivism:* "Man's only right is to do his duty." Such a statement does not resolve a difficulty so much as evade it; Comte was just throwing a sop to traditionalists. In our own day Robert Sinsheimer has remarked that "Rights are not found in nature. Rights are conferred within a human society and for each there is expected a corresponding responsibility."(1)

Opposed to these positivist definitions of right are statements made by those who believe there is some sense in which natural rights *exist*. It is noteworthy that most people in this camp use the word "rights" without giving the slightest hint that it might be a word of dubious provenance. By their silence they seek to repress doubt.

In the last decade we have seen a fantastic efflorescence of "rights." We have heard of the right to work, the right to an adequate standard of living, the right to liberty of movement, the right to conscience, the right to dignity. Even the "right to treason" has been asserted.(2) Such a claim surely confuses the idea of existence with the idea of right. Do we have a right to cheat in a card game? Should this "right" be enshrined in the printed rules of the game?

What is one to say of the right claimed by Robert Kennedy in one of the last speeches he made before his death? Speaking for himself and his political supporters he said: "At stake is not simply the leadership of our Party, and even of our own country, it is our right to the moral leadership of this planet."(3) Kennedy's language was "elevated," but the sentiment he expressed is hardly nobler than that embodied in a $110,000 suit against the State of Michigan by a group of penitentiary inmates who claimed the "right to hold religious pizza parties in the prison chapel."(4) If you wonder how religion got mixed up with pizzas, the connection is this: fifty-two of the prison inmates were members of the Universal Life Church, a California-based group which confers mail-order ordinations of ministers for a $2 fee.

It is easy to see why there is a conspiracy of silence among the asserters of natural rights with regard to doubts of the concept. He who asserts a natural right is almost invariably putting forward a self-serving claim. Reduced to its simplest terms a natural right amounts to no more than this: "I want it." If this demand were expressed openly the egotism of it would provoke an equally egotistical denial by others; to avoid rejection the claimant cloaks his personal desire in transcendental garb. "Right" is the rhetoric that transforms personal desire into universal virtue. Rhetorically--but only rhetorically--"right" removes ego from an egotistical demand.

The aggressiveness of the word "right" is painfully clear in a statement made by Julius K. Nyerere, the President of Tanzania: "In one world, as in one state, when I am rich because you are poor, and I am poor because you are rich, the transfer of wealth from the rich to the poor is a matter of right."(5) Most assertions of rights are less honest and more sophisticated than Nyerere's. However stated, natural rights are seldom challenged. The reason is quite simple: the possible challenger of an asserted right has in the back of his mind some natural right of his own that he intends to assert on a suitable occasion. As Ronald Dworkin pointed out, politicians of all parties "appeal to the rights of the people to justify a great part of what they want to do."(6) However divided politicans may be on their substantive goals, they are united in repressing recognition that the rhetoric they use is nonsense.

If a natural right were only something demanded by a human being from a non-human universe, no controversy would result. If Robinson Crusoe feels that he has a right to food, let him set about getting it. Either he will succeed and live, or he will fail and die; in neither case is controversy created. But when a human being who lives in a world crowded

with some four billion other human beings asserts a right, he asserts a claim upon his fellow beings, a claim that cannot be accepted without proof of its value to the community.

The point is well illustrated by an exchange of views between columnists in *Newsweek*. When Shana Alexander asserted that people have a basic human right to food, clothing, shelter and medical care, Milton Friedman replied: "The heart approves Ms. Alexander's humanitarian concern, but the head warns" us of the dangers in her statement. "If I have the 'right' to food...someone else must have the obligation to provide it. Just who is that? If it is Ms. Alexander, does that not convert her into my slave?"(7)

Friedman's language is perhaps too blunt, but the fact asserted, namely that a right is a claim *upon other people* is true. This is apparent from one of the earliest definitions of "right" by Samuel von Pufendorf, a statement that was influential in the writing of the Declaration of Independence: *Jus est potentia moralis activa, personae competens ad aliquid ab altero necessario habendum: Vocabuli ambiguitas.* In the *Encyclopedia of Bioethics* Pufendorf's statement is translated thus: "A right is an active moral power of a person to receive something from another as a matter of moral necessity."(8)

One person's right is a demand upon others. It is interesting to note that the author of the encyclopedia article did not bother to translate the last two words of Pufendorf's statement, which can be rendered: "Words that drive both ways," or "Ambiguous words." The two Latin words (or their translation) are surely an essential part of any careful definition of "right"--but this part is conveniently omitted by most people who assert natural rights. *A right drives both ways.*

Operationalists(9) deny the existence of natural rights; rhetoricians affirm their existence while affecting deafness to doubts. These differing stances create a *skewness* in the discussion which makes resolution of differences difficult. (In mathematics, "skew lines" are lines in three dimensions that neither meet nor lie parallel to one another.)

Though an operationalist (or positivist) does not take "natural rights" seriously, as a compassionate observer of the human comedy he may well show some sympathy with the impulse that leads people to believe in non-legal rights. Dworkin, in his book *Taking Rights Seriously*, says that the discussion of rights must be seen as one that is rooted in principles of human interaction that are not completely taken care of by statutory law. Beneath the legislated right there is an ill-formed concept of some principle that is more basic still. If I understand Dworkin correctly, his position is similar to that of the scientist Michael Polanyi who, contemplating the explicit "laws" of science, points out that not all of their intellectual structure is visible in printed statements.(10) There is, as it were, an infrastructure that is difficult to put into words--ill-verbalized guides to decision that are essential to carry on the work of science. Polanyi calls this infrastructure the "tacit knowledge" of

the discipline. Among active scientists, Polanyi's position is viewed with approval.

Though denying simple existence to an explicitly stated "natural right" the operationalist can grant (with Dworkin) that the words used may hint, more or less imperfectly, at the tacit knowledge that leads us to create explicit statutory law. Obviously that which is explicit is far easier to discuss than is that which is implicit or tacit. Yet when humanly important differences of opinion lie in the tacit realm we must do our best to uncover the hidden conflicts that lead to different practical conclusions. In the remainder of this essay I will analyze some well-known "rights" the assertion of which divides humankind. I will try--though I may not succeed--to establish a framework of analysis which, if accepted, will make it possible for men and women of good will to agree.

A useful discussion of asserted rights in the modern world requires an educational orientation that is also modern. The medieval scholastics called the elementary part of their educational system the *trivium;* it consisted of grammar, logic and rhetoric. I have suggested that modern education theorists should recognize a new trivium: literacy, numeracy and ecolacy.(11) Literacy encompasses the medieval trivium and is concerned for the most part with this question: *What is the appropriate word?* Numeracy asks: *How much--How many?* Ever more often have we found it impossible to work out the best policy unless we take account of quantities.

Ecolacy--a word coined from the root "ecology"--the last of the modern trivium, asks: *And then what?* The ecolate viewpoint takes account of interrelationships, of time, of positive and negative feedbacks, of synergies, of selection, and of irrevocable changes.

The discussion of an example should clarify the properties of the three levels of the modern trivium. Suppose I am bothered with flies and wish to do something about them. At the literate or rhetorical level the solution seems obvious: flies are a pest, therefore I will get rid of them with a pesticide (literally a "pest-killer"). That pesticides often fail to work has been well known since Rachel Carson(12); the reasons for failure will be discussed presently.

At the numerate level many otherwise effective remedies fail. We can kill flies with a fly-swatter, for example; but the rate--numbers per unit time--at which we can kill them is likely to be numerically less than the rate at which flies are breeding. Or, to put the matter another way, if we have to pay people to swat flies the cost per fly may be more than we are willing to pay.

Pesticides are more effective than fly-swatters, but they fail at the ecolate level. With the passage of time, the continuous use of a pesticide selects for genetic variants among the flies that are resistant to the killing agent. In time, despite the expenditure of much money, we find ourselves as badly off as ever. The general ecological principle is this: "Every pesticide selects for its own failure."(13) Such is the ecolate

answer to the question "And then what?" The answer mocks the rhetoric of the word "pesticide."

"Natural rights," as they have developed historically, are pre-eminently literate, rhetorical concepts. Further discussion of "rights," to be useful, must be numerate and ecolate. The vast bulk of the literature on rights presumes a wholly individualistic orientation. "Right" means the right of an individual living in a social vacuum as it were; there is seldom any mention of duties, responsibilities and interactions. Such a framework was all right for Robinson Crusoe, and may not have been too bad for Daniel Boone; but it won't work for a world in which there are nearly four and a half billion people, most of them crowded together--by choice, and by necessity--on less than ten percent of the earth's surface. And the four and a half billion are increasing by nearly 90 million per year.

To the person who has reached a stage of development that is literate, numerate and ecolate, all previously defended human rights must now be questioned. With Pufendorf, Sinsheimer and Friedman we must recognize that what we have hitherto called a right must be replaced by rhetoric that bespeaks a relationship. Social relationships are fantastically complicated and subtle. Whenever we contemplate intervening in an existing social system we must be acutely aware that "we can never do merely one thing."(14) Quantities matter. A right that may be bearable and even beneficial at one level of population, may be unbearable or disastrous at another. In the ecolate view, situational ethics is the only ethics that works.(15)

In the past, the freedom to move about as one wishes has been regarded by many as a right. Clearly, this right has to be reexamined in the light of population increase. In the days when people were few, movement presented little social problem. In general, there was no reason to deny a person the right to move out of a community (though for the serfs of old this right did not exist). An American colonist moving into the wilderness seemed to present no social problem: either he made it, or he didn't. A person living in a wilderness is not obviously infringing upon the rights of others.

But 4.5 billion people have pretty well covered the face of the earth. Except for Antarctica there are no parts of the earth that are not claimed by one or another of the hundred and fifty nations. Under these circumstances to claim immigration as a right would be to assert the right of invasion. It would be suicidal for the invaded country to accede to a "right to immigrate." It is noteworthy that the United Nations, though all too prone to asserting far-reaching rights, has not yet asserted the right to immigration.

However, the United Nations has asserted the right of emigration. One has sympathy with this claim, but we should admit there is also something to be said for the contrary position. The USSR, for example, has denied the right of emigration to Jewish citizens who want to go to Israel. A defense of this unpopular position can be made along the following lines.

An adult individual represents a considerable investment in the maturation process. In a simple society living largely by private enterprise the investment may be made almost entirely by the family, so only the family need be concerned if an individual proposes to emigrate. But in a complex modern, socialistic state it is the state that invests most in the maturation of the individual. From a straight economic point of view it is appropriate for the state to claim a right to control emigration since the would-be emigrant proposes to take human resources he has not paid for, out of the state which has paid for them. Of course, other considerations may make it prudent for a wise state to compromise its demands for strict economic justice.

What about the movements of citizens within a nation? Should they be free to travel from one part to another, and to change their place of residence? We should note that the largest nation in the world, China, with its approximately one thousand million people, denies this right to its citizens. To most Westerners China's policy seems a retrogression to the days of serfdom, but before we condemn it we should look for the positive benefits of a policy of restricted internal migration.

One of the problems resulting from free internal migration is excessive urbanization. The concept of "urbanization" is not precise, but in round numbers it can be said that 75 percent of Americans live in urban centers, as compared with only 20 percent of the Chinese. "Excessive" is also not a precise concept, but attests to the evils associated with heavy urbanization--crowding, crime, pollution of many sorts, and anomie. If a policy of restricted freedom of movement can diminish the "natural" excessive migration to urban centers it is conceivable that a just accounting of the benefits and costs of the right to move freely might work out to the disadvantage of the claimed right. At any rate, the governing powers of China may think so; other countries should seriously examine the issue.

What happens to the beauty of an exceptionally favored locale when people are free to move into it if they want to? Hawaii is an example in point. Many of the people long resident in Hawaii feel that their state has long ago grown beyond the optimum population level; they would like to restrict further entry into their state from the other forty-nine. Any such restriction would appear to be unconstitutional, but Hawaiians are desperately seeking an argument to compel a reexamination of this point.

To the biologist, the theoretical issue underlying such a situation is clear: the argument for restriction should be based on the "carrying capacity" of the environment. Now carrying capacity is not a figure that is uniquely determined: it depends on the quality of life presupposed. In the case of Hawaii, the very peculiar merit of the environment is its beauty. Beauty is a complex concept, difficult to pin down in law, but clearly crowdedness is relevant to one's perception of regional beauty. The present state of Waikiki Beach as compared with its condition in the year 1930 indicates (to anybody who has known the beach throughout this period) a marked depreciation in esthetic values. Further population growth can only make

the beach worse. Ultimately, Waikiki may be Coney Island West. In the allocation of natural beauty we face a problem in the diseconomies of scale.

Hawaiians have no argument with New Yorkers about the desirability of Coney Island for the East Coast--Hawaiians merely do not want to see their state turned into Coney Island West. Is the Constitution of the United States incapable of supporting the desires of a state to control the number of entrants into it in the name of quality of life? It is not easy to see how such control could be exercised without a fundamental change in the Constitution, but this question will clearly be raised with increasing frequency in time to come.

There is another reason for suggesting that we may some day restrict movement in a country like the United States. All travel requires energy. As the energy budget of the average citizen becomes increasingly restricted this reason alone may force us to accept restrictions on travel, and on change of residence.

One of the most frequently claimed rights in recent years has been the "right to food." An organization called "Bread for the World" on 23 March 1976 presented the following statement to the American Congress:

> We believe that every man, woman and child on earth has the right to a nutritionally adequate diet. This right is not ours to give or take away. It is fundamental and derives from the right to life itself. The Declaration of Independence identifies the right to life as an unalienable human right coming from God who has created all persons equal. Without the food to sustain life, that right is meaningless.

This is lovely rhetoric, but it is ecological nonsense. In a limited world, indefinitely continued exponential growth, if food is equally shared, will lead ultimately to starvation and misery for all--and "ultimately" is not far off.(16) Every year another 90 million mouths clamor for food--another Egypt and Vietnam, as it were. The production of food is not keeping up with the reproduction of the humans who eat the food.(17)

Worse, the poor nations of the world are increasing faster than the rich: about twelve times as fast, in absolute numbers. (The poor are about four times as numerous as the rich, and they are increasing at a relative rate that is three times greater.) Before we support a right to food we should ask what this will do to us if we support also the right claimed in the 1948 United Nations Universal Declaration of Human Rights in Article 16: "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family." In practice, this statement has been repeatedly interpreted to mean that the right "to found a family" means the right to determine the size of one's family. If

the people in poor countries persist in producing larger families than the people in rich countries, and if poor nations are unable to feed all their citizens, and if we hold that the right to food means that the rich must ship food to the poor, then we are setting up a one way siphon that moves food from slowly growing rich countries to rapidly growing poor countries. Charity then finances suicidal growth. If the world is indeed finite--and few doubt this any more--then at some time in the future the right to food will produce disaster. Considering the amount of malnutrition in the world (perhaps equal to 30-50 percent of the world population) we can say that the future is already here.

The matter can be put in another way. Genocide occurs whenever one nation increases its numbers *relative to another*. There are two ways to commit genocide: first, by diminishing the size of one population, or (second) by increasing the relative size of another. Popularly we call only the first gerocide, but this is an error of perception. In a finite world it is possible to get rid of another group by breeding faster and asserting the right to food for all. Under equal distribution of food over-breeding is as effective a genocidal measure as killing. The right to food coupled with the right to breed spells genocide. Few are willing to face this brutal truth. In fact, few are even willing to mention it in public. Without frankness, many of the policies now pursued in international politics cannot possibly succeed in their avowed aim, namely the preservation of peace in the world. No right that threatens the peace of the world, as the "right to food" does, should claim our support. Ours is a limited world; rights also must be limited.

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> Operational thinking will at first prove to be an unsocial virtue; one will find oneself perpetually unable to understand the simplest conversation of one's friends, and will make oneself universally unpopular by demanding the meaning of apparently the simplest terms of every argument. Possibly after every one has schooled himself to this better way, there will remain a permanent unsocial tendency, because doubtless much of our present conversation will then become unnecessary. The socially optimistic may venture to hope, however, that the ultimate effect will be to release one's energies for more stimulating and interesting interchange of ideas.
>
> — p. 32, *The Logic of Modern Physics*

> I record that I have never come across a term of mystical or supernatural import which did not, as a matter of fact, eventually dissolve on analysis into something whose meaning was to be found only in the operations of substituting it into some verbal form. Particularly in philosophy and religion have our verbalisms run away with us like wildfire.

> The whole structure is so permeated by this intellectual cancer that my own instinct is just to scrap all traditional philosophy and religion and start again from the beginning.
>
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